

Exhibit B

to Hawkins Declaration

Plaintiffs' Motion for Class Certification

Michelo et al. v. Nat'l Collegiate Student Loan Trust 2007-2 et al., No. 18-CV-1781

Bifulco et al. v. Nat'l Collegiate Student Loan Trust 2004-2 et al., No. 18-CV-7692

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 Civil Action No. 1:18-cv-017819 (PGG)
4 - - - - -x

5 MUTINTA MICHELO, KATHERINE SEAMAN,
6 MARY RE SEAMAN, and SANDRA TABAR,
7 individually and on behalf of all
8 others similarly situated

9 Plaintiffs,

10 -against-

11 NATIONAL COLLEGIATE STUDENT LOAN TRUST
12 2007-2, NATIONAL COLLEGIATE
13 STUDENT LOAN TRUST 2007-3;
14 TRANSWORLD SYSTEMS, INC. in its own
15 right and as successor to NCO FINANCIAL
16 SYSTEMS, INC.; EGS FINANCIAL CARE INC.,
17 formerly known as NCO FINANCIAL SYSTEMS,
18 INC; and FORSTER & GARBUS LLP,
19 Defendants.

20 - - - - -x
21 [Second caption on following page]

22 February 13, 2020
23 10:03 a.m.

24 Deposition of BRADLEY LUKE,
25 taken by Plaintiffs, pursuant to
Notice, held at the offices of
Veritext Legal Solutions LLP, 1250
Broadway, New York, New York, before
Kathleen Piazza Luongo, a Notary
Public of the State of New York.

1 Bradley Luke

2 not involved in signing affidavits ever
3 have that title?

4 A. Not to my knowledge.

5 Q. So that title could be used to
6 search exclusively for members of the
7 affiant team within TSI/NCO records; is
8 that right?

9 MR. SCHULTZ: Object to the
10 form.

11 A. I believe so.

12 Q. So when a member of the affiant
13 team first joined the team were they
14 given a list of duties that they would
15 have to perform?

16 A. I'm not sure if it was given to
17 them like in a list form. Their job
18 function was described to them, um, and I
19 mean there are job duties, um, that were
20 outlined in the job posting.

21 Q. Okay.

22 What were those duties that
23 were outlined in the job posting?

24 A. Specifically I don't recall the
25 duties, um, that were specifically listed

1 Bradley Luke

2 Q. Were those the notes on the
3 bottom of the one exhibit where you said
4 "I wouldn't usually include this in a
5 production"?

6 A. Yes.

7 Q. What about eRecoverEase?

8 A. ERecoverEase is an online
9 portal, um, basically a communication
10 portal, how our system transmits
11 information, where the law firm system
12 would pick up that information to import
13 into their system of record, and
14 likewise, they would send information
15 through eRecoverEase for CRS to pick up
16 and import.

17 Q. So it was used as a go-between
18 for affiants and outside law firms
19 prosecuting state court lawsuits on
20 behalf of TSI/NCO?

21 A. I wouldn't characterize it that
22 way.

23 Q. Okay.

24 Then I guess I'm a little bit
25 confused, and maybe you can just explain

1 Bradley Luke

2 for me in a little bit greater detail
3 what the purpose of your eRecoverEase
4 was.

5 A. For the two different systems
6 to communicate with each other.

7 Q. Which two different systems?

8 A. CRS and whatever system the law
9 firm uses on their side.

10 Q. Okay.

11 So an outside law firm like
12 Forster & Garbus would have their own
13 system for notes and activity about
14 individual accounts; is that right?

15 A. Yes.

16 Q. And TSI/NCO has its own system?

17 A. Yes.

18 Q. And eRecoverEase allows for
19 interaction between those two systems; is
20 that right?

21 A. Yes.

22 Q. I think that you referred to it
23 before as the Media Locator; is that
24 right?

25 A. I made reference to that

1 Bradley Luke

2 Q. Okay.

3 Was there a method by which
4 TSI/NCO tracked whether employees or
5 affiants were logging into that system?

6 A. I don't believe so.

7 Q. Okay.

8 You mentioned before that
9 documents were printed out?

10 A. Yes, sir.

11 Q. Describe that process for me,
12 please.

13 A. So typically when an affidavit
14 is requested, the affidavit production
15 team will merge that affidavit with the
16 data from that individual loan, um, and
17 print that out with a package of
18 documents that that affidavit references,
19 um, that package of documents being put
20 together by the media team.

21 They would print those two
22 together so that you'd have one package
23 of an affidavit followed by the exhibits
24 to that affidavit.

25 Those affidavit packages are

1 Bradley Luke

2 then batched together in paper form to
3 have multiple ones within what we call a
4 batch.

5 Currently there is no more than
6 five affidavits per batch, so the affiant
7 would grab that batch of five or less
8 affidavits and bring it back to their
9 desk and begin to work through each
10 individual affidavit.

11 Q. You said a lot there so there
12 might be a few follow-up questions that I
13 have to go through with you.

14 You said that first there was a
15 request for an affidavit?

16 A. Yes.

17 Q. Is that the -- is that the
18 initial thing that happens when an
19 affidavit has to be created?

20 A. Yes.

21 Q. Where does that request come
22 from?

23 A. The law firm.

24 Q. Such as Forster & Garbus?

25 A. Such as.

1 Bradley Luke

2 Q. And that would be in connection
3 with, for example, a motion for default
4 judgment; is that correct?

5 A. Potentially.

6 Q. So a request comes in from the
7 law firm; right?

8 A. Yes.

9 Q. Is it sent to you
10 electronically?

11 A. Yes.

12 Q. It comes from the law firm's
13 electronic records-keeping system?

14 MR. SCHULTZ: Object to the
15 form.

16 A. Yes.

17 Q. It goes through eRecoverEase?

18 A. Yes.

19 Q. And then what system at TSI/NCO
20 picks that up?

21 A. So at that point that code goes
22 into CRS. It also goes --

23 Q. What is that code?

24 A. The electronic request code.

25 Q. What was it?

1 Bradley Luke

2 A. S-126.

3 Q. That's a code for CRS's system?

4 A. Well, that's a code that
5 identifies an affidavit is being
6 requested.

7 So the firm would send an S-126
8 from their system to eRecoverEase and
9 eRecoverEase will send it to CRS. At the
10 same time, that code gets put into a
11 system called MAPS.

12 Q. What does MAPS stand for?

13 A. I don't know, but it's just
14 M-A-P-S, goes into that, which is -- we
15 call it a system, it's essentially a
16 database, that identifies that an
17 affidavit was requested for that account.

18 And then it will -- it has a
19 process where it will pull data in from
20 CRS to populate the various fields in
21 MAPS, and those fields are what's
22 utilized to create that affidavit.

23 Q. And what kind of fields are you
24 referring to?

25 A. So consumer's name,

1 Bradley Luke

2 co-borrower's name, if there is a
3 co-borrower, the status of the account,
4 balances, last payment date, amount, the
5 Trust name, fields such as those.

6 Q. But the rest of the affidavit
7 is a template that's been pre-created; is
8 that right?

9 A. Yes.

10 Q. And then there are -- pardon my
11 layman's terms -- blank spaces for these
12 fields that you just described?

13 A. Essentially, they're merged
14 fields, um, so the data will be pulled in
15 to populate this -- I don't know, for
16 lack of a better word -- placeholder
17 within that text file or Word document.

18 Q. And is that done automatically
19 or is there some sort of manual
20 involvement by somebody at TSI/NCO?

21 A. So the process is kicked off by
22 a human to merge the documents.

23 Q. By what human?

24 A. Whoever is on the affidavit
25 production team working those batches at

1 Bradley Luke

2 that day.

3 Q. What is the affidavit
4 production team, because I don't think
5 we've gone into detail about that?

6 A. They're just the team that
7 produces the affidavits for the affiant
8 to review.

9 Q. And that's separate from the
10 affiant team?

11 A. It is.

12 Q. How many members did the
13 affidavit production team have between
14 late 2012 through 2016?

15 MR. SCHULTZ: Object to the
16 form.

17 A. Between three and seven maybe
18 at any point in time.

19 Q. Who was the supervisor of the
20 affidavit production team during that
21 time frame?

22 A. I don't recall who was the
23 supervisor other than the current
24 supervisor, um, and I don't recall the
25 supervisor between 2012, late 2012 to

1 Bradley Luke

2 2016.

3 Q. So MAPS is used to transfer
4 individual data points from the CRS to
5 populate the placeholder spaces within
6 the affidavit template?

7 A. It's one of the functions of
8 MAPS, yes.

9 Q. Okay.

10 And every time that a request
11 is sent by a law firm and it goes through
12 eRecoveryEase, somebody from the
13 affidavit production team has to hit a
14 button?

15 A. To actually print out that
16 affidavit, yes, unless they are batched
17 together. I mean one button push could
18 print out 10 affidavits, or however many
19 affidavits are put together in a batch
20 when the process was kicked off.

21 Q. How did they decide whether to
22 just hit the button for one or hit the
23 button for 10 or however many?

24 MR. SCHULTZ: Object to form.

25 A. Mostly it's a product of

1 Bradley Luke

2 resources. So if we had two affiants in
3 and there's already, let's say, if there
4 are 10 affidavits already printed, then
5 it's judged upon the workload of you have
6 two people, 10 affidavits, we'll print
7 five more, that way they have enough
8 workload to sustain the day or the next
9 couple days.

10 So it's mostly a byproduct of
11 the resources and what's already out
12 there produced and printed.

13 Q. Who keeps track of how many
14 affidavits have been printed and how many
15 should be printed at any given point in
16 time?

17 A. The supervisor.

18 Q. Supervisor of?

19 A. The affidavit production team.

20 Q. How did they keep track of how
21 many affidavits should be produced at any
22 given point in time?

23 A. I'm not entirely certain.

24 Q. When they print out a batch,
25 what printer did they use?

1 Bradley Luke

2 A. It's a big office printer, I
3 think it's like a Riav? If that's how to
4 pronounce it?

5 Q. Ricoh?

6 A. That's -- sure. I mean it's a
7 big office printer/scanner.

8 Q. Okay.

9 Where was that printer/scanner
10 located?

11 A. Depending on what time period,
12 I mean currently it's in a room in our
13 office. Um, back in the late 2012/2013 I
14 don't recall, um, where the printer was,
15 but it was in the office somewhere.

16 Q. In whose office?

17 A. Inside NCO/TSI's office.

18 Q. In whose?

19 A. NCO or TSI's.

20 Q. Let me ask you this: Where did
21 the affidavit production team sit in
22 relation to the affiant team?

23 A. All within eyeshot, you could
24 all see each other.

25 Q. Okay.

1 Bradley Luke

2 All within that same big room
3 that you were describing?

4 A. Yes.

5 Q. And then when a batch got
6 printed out, how would they go from the
7 affidavit production team?

8 MR. HAWKINS: Strike that.

9 Q. This Ricoh printer was located
10 closer to the affidavit production team
11 or to the affiant team?

12 A. Pretty much equidistant. I
13 mean they all sat pretty much in the same
14 area. If it was closer to one than the
15 other it would be a matter of a couple of
16 steps at tops.

17 Q. How did the affiant team know
18 that new affidavits had been printed out?

19 A. So part of their daily, um,
20 process when they get into the office and
21 get situated, they would go to where the
22 batches are stored, it's a file cabinet,
23 they would open up the drawer and see
24 batches in there and they would sign out
25 a batch.

1 Bradley Luke

2 Q. Let's pause for a second there.

3 How did the physical affidavits
4 go from the Ricoh printer to that file
5 drawer?

6 A. The affidavit production team
7 that had printed them out, they would go
8 pick them up and then bind them together
9 as appropriate, via paper click per
10 affidavit, and then they would rubber
11 band them together with the batch cover
12 sheet.

13 Q. What did the batch cover sheet
14 say?

15 A. Basically it's a reconciliation
16 of what was in the batch, so they can --
17 the affiant can verify that that batch
18 was complete when they grabbed it.

19 So they would have various
20 surface level -- the request reference
21 number, the consumer's name on the
22 affidavit, and I think it included like a
23 balance on the affidavit.

24 And it would just have -- if it
25 was a batch of five, it would have five

1 Bradley Luke

2 rows with the different reference numbers
3 on it.

4 Q. Okay.

5 Were copies of those batch
6 cover sheets saved?

7 A. Yes, I believe so.

8 Q. Okay.

9 To your knowledge, have those
10 batch cover sheets been produced as to
11 the subject affidavits as defined in the
12 Deposition Notice for today?

13 A. I don't believe they have.

14 Q. Okay.

15 MR. HAWKINS: We are going to
16 call for production of those.

17 Q. How would you go find those?

18 A. By the age of the accounts or
19 the subject affidavits, I believe we
20 would have to go through and open up
21 individual pdfs to find the proper batch.

22 I could can be mistaken by
23 that, but based on the age, I believe
24 that would be the process by which we
25 would have to do it.

1 Bradley Luke

2 Q. What pdfs?

3 A. The pdf of the scan, the scan
4 of the batch cover sheet.

5 Q. So when they printed them out
6 they would scan a copy?

7 A. After the affiant's completed
8 with the batch, the affiant basically
9 fills out that cover sheet saying when it
10 was signed, how many were signed, how
11 many were rejected, um, and it would
12 check off the ones that they signed, um,
13 and a notary would check off the ones
14 that they notarized. Those are then
15 scanned in and maintained.

16 Q. So I'm just confused about one
17 thing, is the batch cover sheet specific
18 to an individual account or to multiple
19 accounts for affidavits that are printed
20 out?

21 A. The batch cover sheet is going
22 to contain information for whatever's in
23 that batch. So if that batch contained
24 one affidavit, it would only have
25 information for one affidavit; but if

1 Bradley Luke

2 that a batch contained five affidavits,
3 all five would be referenced on that
4 sheet.

5 Q. So an affiant, a member of the
6 affiant team would come in in the morning
7 during the time frame that we're talking
8 about, go to this file cabinet, open up
9 the drawer and there would be batches in
10 the drawer; correct?

11 A. Presumably.

12 Q. Did it have his or her
13 particular name on it or could they just
14 grab what they wanted?

15 A. So they weren't designated by
16 affiant name, but there was an order in
17 which they were to grab them. So they
18 were put in a drawer by oldest to newest.

19 Part of the process is that the
20 SCRA, the Servicemembers Civil Relief Act
21 form, could be no more than -- I believe
22 it was 30 days old, so to prevent any
23 affidavits from staying in the drawer 30
24 days and having to reproduce the scrub,
25 they were instructed to grab the oldest

1 Bradley Luke

2 A. Well, the reduction in daily
3 output wasn't a byproduct or a conscious
4 decision or mandate by TSI. It was a
5 byproduct of the affidavits including
6 more information, documentation, taking
7 longer to review, as well as there is a
8 decrease in requests and need for
9 affidavits.

10 So some days there wasn't 30
11 affidavits ready to be produced.

12 Q. What kinds of additional
13 documents started to be included during
14 2016-2017 roughly?

15 A. Documents started to be
16 included, the chain-of-time documents,
17 the schedule excerpts, all the way till
18 now, now financial information from AES,
19 loan financial activity, deferment for
20 variance for payment schedule are all
21 included in the affidavit.

22 Q. Did the supervisors of the
23 affiant team ever meet with members of
24 the affiant team during the 2012-2016
25 time period about how many affidavits

1 Bradley Luke

2 CONTINUED EXAMINATION BY MR. HAWKINS:

3 Q. Mr. Luke, you understand that
4 you're still under oath?

5 A. Yes, sir.

6 Q. Okay.

7 I'd like to refer to Exhibit 8,
8 comprising Bates 79 through 179. We
9 looked at the top of this exhibit earlier
10 and I'd like to call your attention to
11 document starting at Bates TSI 101.

12 MR. HAWKINS: Strike that.

13 Q. Starting at Bates 102.

14 A. Okay.

15 Q. Okay?

16 A. I'll look at the TV screen; I'm
17 getting a spinning wheel but we can
18 proceed.

19 Q. All right, sorry about that.

20 Do you recognize this document,
21 Mr. Luke?

22 A. I do.

23 Q. Okay.

24 What is this?

25 A. This is a screen print of the

1 Bradley Luke

2 AES Compass system, this is a screen
3 print of the loan financial activity
4 screen; in particular, this is page 106
5 of that screen.

6 Q. And these or this document --

7 MR. CASAMENTO: Can you guys
8 unmute the phone? I'm sorry.

9 MR. HAWKINS: Oh, for the
10 record, I've unmuted the phone and
11 counsel can check the transcript for
12 what we said between when we went
13 back on the record and now.

14 CONTINUED EXAMINATION BY MR. HAWKINS:

15 Q. This is a document that came
16 into TSI/NCO's possession from PHEAA;
17 correct?

18 A. Essentially, TSI has a program
19 that logs into the system and takes
20 screenshots of the relevant loan,
21 particularly this screen, amongst other
22 screens.

23 Q. Is this a document that
24 employees at TSI/NCO had access to
25 through Compass during the relevant time

1 Bradley Luke

2 period?

3 A. Yes.

4 Q. And I'm referring to 2012
5 through 2016?

6 A. Yes.

7 Q. Okay.

8 Do you see where my mouse
9 pointer is pointed, "Tran type"?

10 A. Yes.

11 Q. Okay.

12 What does that refer to?

13 A. Transaction type. So that
14 column, um, of information is
15 alphanumeric codes which relate to
16 different transactions.

17 Q. Okay.

18 Different transactions that --
19 that would have occurred at the time that
20 PHEAA was servicing an individual
21 account; is that right?

22 A. Yes. The transactions are
23 actually dated, um, if you look at the
24 effective date or posted date columns to
25 the left of transaction type, um, those

1 Bradley Luke

2 are the dates that that transaction was
3 put onto the account.

4 Q. Okay.

5 Do you know -- I'm not going to
6 go through each one of them -- but do you
7 know generally speaking what these
8 transaction types mean?

9 A. Yes, sir.

10 Q. How do you know that?

11 A. Through my training with AES.

12 Q. Okay.

13 Did members of the affiant team
14 have training to know what these
15 transaction types mean?

16 A. Yes.

17 Q. Okay.

18 Did they receive a dictionary,
19 for lack of a better word, of what these
20 various transaction types mean?

21 A. They may have. I can't recall
22 with certainty whether they were actually
23 given documents or were just trained on
24 what they meant and they took notes. I
25 don't remember exactly.

1 Bradley Luke

2 Q. Okay.

3 Do you or somebody else at TSI
4 have a -- some sort of comprehensive
5 dictionary that you could produce of what
6 individual transaction types mean as
7 they're reflected on this log and the
8 other logs that exist in the production
9 that you have made in this litigation?

10 A. An existing dictionary, I'm not
11 sure whether that exists or not. I'd
12 have to go back and double check.

13 It's been a while since I've
14 looked for something of that nature.

15 Q. Okay.

16 Do you remember ever seeing
17 such a comprehensive list?

18 A. I remember seeing a list, um,
19 but I don't know if it was a
20 comprehensive list or if that list was
21 just put together by an individual
22 employee to help them remember their
23 training.

24 I don't remember what the
25 source of that list was but I do recall

1 Bradley Luke

2 seeing a list of at least some of the
3 codes.

4 Q. Do you know how many
5 transaction type codes PHEAA has?

6 A. I do not, but I can say
7 generally working through these loans as
8 part of my normal business, commonly
9 there's about 10 different codes that are
10 on any loan.

11 MR. HAWKINS: We're going to
12 call for production of those and --

13 MR. SCHULTZ: The AES code
14 glossary.

15 MR. HAWKINS: Glossary, that's
16 the word I was looking for.

17 MR. SCHULTZ: And you're going
18 to ask that from TSI?

19 MR. HAWKINS: Yes.

20 MR. SCHULTZ: Please put that
21 in writing and we will respond to it
22 accordingly.

23 MR. HAWKINS: Call, I used the
24 word "call."

25 CONTINUED EXAMINATION BY MR. HAWKINS:

1 Bradley Luke

2 right?

3 A. Yes.

4 Q. All right and the loan activity
5 would be the same thing for another pdf
6 file?

7 A. Yes, the loan financial
8 activity.

9 Q. When an account is assigned
10 to -- when an account was assigned to
11 TSI/NCO during the 2012-2016 period, what
12 was the first thing that TSI/NCO did with
13 respect to the account?

14 MR. SCHULTZ: Object to the
15 form.

16 A. First thing would be to import
17 the information, um, from PHEAA to create
18 the account record.

19 Q. Did anybody at TSI/NCO ever do
20 collection efforts involving phone calls?

21 A. Potentially, depends on the
22 account.

23 Q. Depends on whether phone calls
24 had previously been made by another
25 entity with respect to that account?

1 Bradley Luke

2 A. Not necessarily. Um, we spoke
3 briefly about our agency network?

4 Q. Yes.

5 A. Various third-party agencies.

6 Q. Yes.

7 A. TSI operates within that agency
8 network also, um, so an account could be
9 placed from TSI the special subservicer
10 to TSI the collection agency for
11 collection attempts.

12 Q. Phone-based collection
13 attempts?

14 A. Phone and letter.

15 Q. How did TSI/NCO go about
16 selecting an account for referral to an
17 outside law firm such as Forster and
18 Garbus for litigation-based collection
19 efforts?

20 A. So generally the accounts would
21 go through two years of collection
22 attempts, phone calls, letters. Those
23 two years are comprised of six-month
24 periods at different agencies; so if you
25 had agency one for six months, two,

1 Bradley Luke

2 three, four, to make your two-year time
3 period.

4 Q. Do you have a term of art that
5 you use to refer to those periods of
6 time?

7 A. Yes.

8 Q. What are they?

9 A. The first six months is
10 primary; second, secondary; third,
11 tertiary; fourth is quad.

12 Q. Primary what?

13 A. We just refer to it as the
14 primary segment.

15 Q. Segment?

16 A. Yeah.

17 Q. Is there another word that you
18 use besides segment?

19 A. No, typically we just refer to
20 it shorthand as primes.

21 Q. Okay.

22 So you would just say this has
23 been in primary, this has been in
24 secondary, this has been in tertiary and
25 so on?

1 Bradley Luke

2 A. Yes.

3 Q. And quad is litigation?

4 A. No, quad is the fourth.

5 Q. And what happens in quad?

6 A. Same thing that happens in
7 primary, secondary and tertiary, it's
8 just the last six months of call and
9 collect attempts.

10 Q. Okay. Please continue.

11 A. I apologize.

12 So once an account goes through
13 those four levels or two years of
14 collection attempts and no resolution has
15 been agreed upon, payment arrangement,
16 something, things of those -- or that
17 sort of thing, then it goes into a unit
18 for various scrubs to be conducted on the
19 account to determine whether it's
20 eligible to be placed to a law firm.

21 Q. I'm going to pause you there
22 for a second.

23 You mentioned scrubs before in
24 reference to whether a consumer is a
25 serving member of the military; correct?

1 Bradley Luke

2 Q. You have referred to an
3 attorney network or firm network, which
4 is the term?

5 A. Attorney network.

6 Q. Attorney network. And that is
7 a network of outside firms that regularly
8 conduct collection efforts, including
9 litigation-based collection efforts on
10 behalf of National Collegiate Student
11 Loan Trusts; is that right?

12 A. Yes.

13 MR. SCHULTZ: Object to the
14 form.

15 Q. How are firms selected to be
16 included in the network?

17 MR. SCHULTZ: Object to the
18 form.

19 And to the extent it involves
20 any sort of attorney communications,
21 I instruct you not to answer.

22 A. Firms have been part of the
23 network for quite a few years. I don't
24 recall any new firms being added, um, so
25 I don't recall the specifics of what's

1 Bradley Luke

2 reviewed to add a new firm because it
3 hasn't happened in quite some time.

4 Q. So since late 2012, the same
5 firms have been in the network -- between
6 2000 --

7 MR. HAWKINS: Strike that.

8 Q. Between 2012 and 2016, the
9 network was comprised of the same firms?

10 A. I believe so. I'd have to
11 double check to make sure no firms was
12 added like early 2013, but from my
13 recollection I believe the networks
14 hasn't added any firms in that time
15 period.

16 Q. Has Forster & Garbus been a
17 member of the network from that whole
18 time?

19 A. Yes.

20 Q. Who went about selecting the
21 firms in the network?

22 A. Going back from memory, it was
23 a group of individuals within back then
24 TS -- or NCO, um, but I don't -- I don't
25 know what groups those people were. I

1 Bradley Luke
2 effective date of the market share
3 adjustment, would show them at 70
4 percent.

5 So between the time Table 1
6 started and the date of Table 2, they had
7 50 percent; Table 2 going forward they
8 would have whatever percent I said, I
9 think I said 70.

10 MR. SCHULTZ: Seventy.

11 MR. HAWKINS: We are going to
12 call for production of that document
13 as pertaining to Forster & Garbus.

14 CONTINUED EXAMINATION BY MR. HAWKINS:

15 Q. What would cause the market
16 share for a firm like Forster & Garbus to
17 be adjusted upwards?

18 A. Could be any number of reasons;
19 they could be outperforming their
20 competitor.

21 Q. Outperforming how?

22 A. Through collections, their
23 revenue, they could have better
24 efficiency on recoveries of loans that
25 were placed to them.

1 Bradley Luke

2 Q. Including litigation-based
3 recoveries?

4 A. Litigation-based recoveries
5 would be looked at, um, but from my
6 recollection, it's recoveries grouped
7 together.

8 Q. What kinds of efficiencies
9 would a law firm show that would make
10 them eligible for a market share
11 adjustment upwards?

12 A. It would be basically time of
13 recovery. So if the batch was placed to
14 them, what their liquidation rate over
15 the first 30 days, 60 days, 90 days.

16 If the firm really excels early
17 on in the batch placement, compared to a
18 firm that doesn't, that could impact the
19 market share.

20 Q. You talked before about cost
21 discard, I believe that that's the term
22 that you used?

23 A. Yes.

24 Q. Explain what that term means.

25 A. So when a firm expends a cost,

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2 they have to upload that cost to us,
3 letting you know that they expended it.
4 If they don't upload that cost to us
5 properly, our system won't process it
6 because it doesn't recognize it, so
7 that's the discard.

8 So to discard that cost, we
9 have a team that works with the firm to
10 remedy those discards so that they can
11 make sure that the costs get processed
12 properly.

13 Q. So it's purely a coding error;
14 is that right?

15 MR. SCHULTZ: Objection to
16 form.

17 A. It could be a coding error or
18 an amount error.

19 We have caps for certain costs
20 based on states, um, where if, let's say,
21 cost code number one has a cap of \$25.00
22 but the firm sends us \$26.00 with that
23 cost code, it would be discarded.

24 It would be like, well, our cap
25 is 25, and they would have to evidence

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2 why it was actually 26, evidence that it
3 was proper instead of in error.

4 Q. What kind of costs does a firm
5 incur that they have to then relate to
6 TSI/NCO?

7 A. These are litigation-based
8 costs, so filing of a Complaint, service
9 of a Summons and Complaint, some states
10 have motion fees, they are all
11 litigation-based.

12 Q. Are there special rules that a
13 firm like Forster & Garbus has to abide
14 by when a National Collegiate Student
15 Trust account is placed with it?

16 MR. SCHULTZ: Objection to
17 form.

18 A. There are.

19 Q. And what are they?

20 A. So the National Collegiate
21 Student Loan Trust portfolio, special
22 rules would be like statute of
23 limitations, um, recall process; there's
24 a process by which that they can keep an
25 account if they're working on a